

REMARKS

Claims 1 to 20 are pending in the present application. Claims 1 to 17 have been rejected. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

In the Office Action, Claim 1 was rejected under 35 U.S.C. 112, first paragraph for allegedly containing subject matter not described in the Specification. Applicant respectfully disagrees and traverses the rejection for the reasons discussed below.

The subject matter of Claim 1 is fully supported by the Specification. See, for example, the Specification at, page 9, lines 17-20. The Office Action suggests that “the body and the neck are formed as a single piece, and not the walls.” Office Action, page 2. However, one of skill in the art would understand that the walls referred to in Claim 1 form the body and that, if the body is made as a single piece, the walls are also made as a single piece. Nevertheless, Claim 1 has been amended to further clarify that the body of the container is made as a single piece.

Also, there is nothing in the Specification to preclude an interpretation of the disclosure to include a body of a container being made as a single piece. Even the methods of manufacturing the body of a container described in the Specification support an embodiment including a body of a container being made as a single piece. One of skill in the art would understand that a body of a container obtained by stretch blow molding, for example, would produce a body made as a single piece. See, for example, the Specification at page 13, lines 19-22.

In addition, the drawings support an embodiment including a body of a container being made as a single piece. To this end, none of the Figures illustrate a body having more than one piece. Even if the Specification can be interpreted to disclose a body being made together with a neck as a single piece, the body would necessarily be made as a single piece, whether together with the neck or not together with the neck. Therefore, the subject matter of Claim 1 is fully supported by the Specification, and there is nothing in the Specification to preclude an interpretation of the disclosure to include a body of a container being made as a single piece. Accordingly, Applicants respectfully submit the rejection has been overcome and should be withdrawn.

Claims 1 to 13, 16 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,878,977 to Carlisle (“*Carlisle*”). Applicants respectfully submit that the rejection has been overcome for at least the reasons discussed below.

As explained above, the limitation in Claim 1 that the wall is made of a single piece is not “new matter” as suggested by the Office Action. As discussed in the Response to the previous Office Action dated September 9, 2005, *Carlisle* fails to teach or suggest a body of a container being made as a single piece as in Claim 1. In contrast to the claimed invention, *Carlisle* discloses a container consisting of separate film sections joined together by a seam extending around the periphery of the container. *Carlisle*, column 4, lines 45-50. Therefore, *Carlisle* fails to teach or suggest each element of the claimed invention and provides nothing to one of skill in the art that would suggest modifying *Carlisle* to arrive at the claimed invention. For this reason alone, the obviousness rejection is not proper and should be withdrawn.

The Office Action suggests that it would have been obvious to one having skill in the art at the time the invention was made to form the walls of one piece since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Office Action, page 4. Applicants respectfully submit, however, that the Patent Office has improperly limited the focus to a structural difference from the prior art and has failed to consider the invention as a whole.

As taught in Applicants’ Specification at, for example, page 6, lines 2-23, Applicants have eliminated the need for multiple pieces of a body of a container for a container to be seated in an upright position, for example, showing insight that was contrary to the understandings and expectations of the art. *Carlisle*, on the other hand, perceived a need for a configuration of seams joining and defining multiple separate wall portions of the body of the container to form a flat surface to enable the container to rest in an upright position. *Carlisle*, column 6, lines 40-52. As established by the Federal Circuit, if an insight was contrary to the understandings and expectations of the art, the structure effectuating it would not have been obvious to those skilled in the art. *Schenck v. Nortron Corp.* 713 F.2d at 785, 218 USPQ at 700 (Fed. Cir. 1983). By including a wall or walls forming the body of a container that is made as a single piece, Applicants have eliminated the need for multiple pieces of a body of a container contrary to the understandings and expectations of the art, as demonstrated in *Carlisle*. Therefore, a body made

as a single piece would not have been obvious to one skilled in the art. Accordingly, Applicants respectfully submit that the rejection is improper and should be withdrawn.

Claims 14 and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Carlisle* in view of U.S. Patent No. 6,578,740 to Hagihara ("*Hagihara*"). The Patent Office combines *Hagihara* with *Carlisle* to attempt to cure the deficiency of *Carlisle* of not disclosing a closure being fitted onto a neck. As discussed in the Response to the previous Office Action dated September 9, 2005, *Hagihara* also fails to disclose a body of a container being made as a single piece as in the claimed invention. Therefore, for at least the reasons discussed above, *Carlisle* alone, or in combination with *Hagihara*, fails to disclose a body of a container being made as a single piece as in the claimed invention. Accordingly, Applicants respectfully submit that this rejection should be withdrawn.

For the foregoing reasons, Applicants respectfully submit that the application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,
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